

REMARKS

Claims 1-4 and 6-14 were previously pending in this patent application.

Claims 1-4 and 6-14 stand rejected. Herein, Claims 1, 2, 4, 6, and 13 have been amended. Accordingly, after this Amendment and Response After Final Action, Claims 1-4 and 6-14 remain pending in this patent application. Further examination and reconsideration in view of the claims, remarks, and arguments set forth below is respectfully requested.

Claim Objection

Claim 6 is objected to because of an informality. Herein, the informality has been corrected

35 U.S.C. Section 112, Second Paragraph Rejections

Claim 6 is rejected under 35 U.S.C. Section 112, Second Paragraph, as being indefinite. Herein, Claim 6 has been amended to remove the phrase "may be" which prompted the rejection under 35 U.S.C. Section 112, Second Paragraph.

35 U.S.C. Section 102(e) Rejections

Claims 1, 2, 4, 6, 7, and 12 stand rejected under 35 U.S.C. 102(e) as being anticipated by Roberts et al., U.S. Patent Application Publication No. US2002/0110149 (hereafter Roberts). These rejections are respectfully traversed.

Independent Claim 1 recites (as amended):

A client-based method for managing transfer of a file having data from a networked device to a client system having a network connection, comprising the steps of:

- (a) determining a type of the network connection;
 - (b) automatically retrieving a threshold noise level corresponding to the network connection type;
 - (c) determining a utilization rate of the network connection, ***wherein the threshold noise level is independent of the utilization rate;***
 - (d) determining whether the utilization rate of the network connection is below the threshold noise level;
 - (e) if the utilization rate is below the threshold noise level, receiving data from the networked device using a method comprising:
 - (i) determining whether to adjust an amount of data received in a current iteration;
 - (ii) if step (i) determines to adjust the amount of data received, adjusting the amount of data to receive according to the type of network connection;
 - (iii) retrieving an increased amount of data; and
 - (f) if the utilization rate is above the threshold noise level, pausing a predetermined amount of time before proceeding; and
 - (g) repeating steps (c)-(f) until all data in the file is received.
- (emphasis added)

It is respectfully asserted that Roberts does not disclose the present invention as recited in Independent Claim 1. In particular, Independent Claim 1

recites the limitation, "***wherein the threshold noise level is independent of the utilization rate***," (emphasis added). In contrast, Roberts discloses that the threshold level is calculated as a function of the maximum level of actual bandwidth utilization. [Roberts; Figure 7; paragraph 0056]. Therefore, it is respectfully submitted that Independent Claim 1 is not anticipated by Roberts and is in condition for allowance.

Dependent Claims 2, 4, 6, 7, and 12 are dependent on allowable Independent Claim 1, which is allowable over Roberts. Hence, it is respectfully submitted that Dependent Claims 2, 4, 6, 7, and 12 are patentable over Roberts for the reasons discussed above.

35 U.S.C. Section 103(a) Rejections

Claims 3, 8-11, 13, and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al., U.S. Patent Application Publication No. US2002/0110149 (hereafter Roberts) in view of Shaffer et al., U.S. Patent No. 6,683,889 (hereafter Shaffer). These rejections are respectfully traversed.

Dependent Claims 3, 8-11, and 14 are dependent on allowable Independent Claim 1, which is allowable over Roberts. Moreover, Shaffer fails to

disclose that the threshold noise level is independent of the utilization rate, as in the invention of Independent Claim 1. Therefore, it is respectfully submitted that Independent Claim 1 is patentable over the combination of Roberts and Shaffer. Since Dependent Claims 3, 8-11, and 14 depend from Independent Claim 1, it is respectfully submitted that Dependent Claims 3, 8-11, and 14 are patentable over the combination of Roberts and Shaffer for the reasons discussed above.

Independent Claim 13 recites (as amended):

A system for managing the transfer of a file having data from a networked device to a client system, comprising:
means for determining a type of network connection of the client system;
means for defining a threshold parameter and a buffer parameter according to the type of network connection, ***wherein the threshold parameter is independent of the utilization of the network connection***;
means for receiving an amount of data determined by the buffer parameter when the utilization of the network connection is below the threshold parameter and adjusting the buffer parameter according to the monitoring of the utilization of the network connection; and
means for suspending the receiving of data when utilization of the network connection is not below the threshold parameter and monitoring the utilization of the network connection. (emphasis added)

It is respectfully asserted that the combination of Roberts and Shaffer does not teach, suggest, or motivate the present invention as recited in Independent Claim 13. In particular, Independent Claim 13 recites the limitation,

"wherein the threshold parameter is independent of the utilization of the network connection," (emphasis added). In contrast, Roberts discloses that the threshold level is calculated as a function of the maximum level of actual bandwidth utilization. [Roberts; Figure 7; paragraph 0056]. Moreover, Shaffer fails to disclose that the threshold parameter is independent of the utilization of the network connection, as in the invention of Independent Claim 13. The combination of Roberts and Shaffer fails to teach, suggest, or motivate the invention of Independent Claim 13. Therefore, it is respectfully submitted that Independent Claim 13 is patentable over the combination of Roberts and Shaffer and is in condition for allowance.

CONCLUSION

It is respectfully submitted that the above claims, arguments and remarks overcome all rejections and objections. All remaining claims (Claims 1-4 and 6-14) are neither anticipated nor obvious in view of the cited references. For at least the above-presented reasons, it is respectfully submitted that all remaining claims (Claims 1-4 and 6-14) are in condition for allowance.

The Examiner is urged to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

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Respectfully submitted,

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Dated: _____

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